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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,646	07/26/2001	Andreas Simon	13319-002001	7998
26161	7590	12/15/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			MANNING, JOHN	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/915,646	<b>Applicant(s)</b> SIMON ET AL.	
	<b>Examiner</b> John Manning	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/17/04 &amp; 4/04/02</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5 and 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Matheny et al. (US Pat No 6,766,524).

In regard to claim 1, Matheny discloses a system and method for encouraging views to watch television programs. "FIG. 2 illustrates a communication system 200 that enables television sponsors to reward viewers for paying attention to broadcast television commercials and other types of broadcast programs. System 200 includes a broadcaster 205 broadcasting a video signal 210 to a receiver 215. Receiver 215 is adapted to communicate with a remote server 220 via a bi-directional network connection 225 and the Internet 230. Internet 230 is understood to include all required modems, lines, and other components" (Col 2, Lines 39-47). The claimed limitations of "a plurality of output device" and "a plurality of input devices allocated to a plurality of users of the system" are met by Figure 2, Items 215. "Receiver 215 includes a television set 235 connected via a video line 240 to a set-top box 245 similar to set-top box 110 of FIG. 1. Television set 235 and set-top box 245 work together to display Web

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pages, broadcast television, or both. Web pages are typically downloaded over the Internet 230, but may also be received from video signal 210 or retrieved from a local memory, such as a disk drive 250 in set-top box 245. Set-top box 245 stores Web pages locally in each case” (Col 2, Lines 48-55). The claimed limitation of “at least one host computer, wherein identical information is output at the output devices, and the host computer transmits to the output devices further information allocated to the identical information, data relating to the further information and input into the plurality of input devices are transmitted to the host computer, and wherein the host computer selects, in response to the data received from the plurality of input devices, one or a subset of users and transmits a selected message to the selected user or subset of users” is met by Figure 2, Item 200. “The possibility of receiving a reward will entice some viewers to claim rewards without bothering to watch the associated commercial. Thus, in accordance with one embodiment of the invention, viewers must provide some feedback to indicate that they watched the commercial before they are entitled to a reward. In the example of FIG. 2, set-top box 245 presents the viewer with a test question 265 at or near the end to the commercial. The question is based upon the content of the commercial, so viewers who watch the commercial are able to answer the question correctly. In the example depicted as a subsequent video frame 266 of television 235, a reward query 265 prompts the viewer with a query 269 asking the viewer to enter the previously displayed cruise destination into a form field 270. Entering the correct answer in field 270 entitles a viewer to the offered reward” (Col 3, Lines 14-29). “Reward notice 260 and reward query 275 are conveyed in trigger messages, or

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"triggers," broadcast to receivers of broadcast video. Such triggers generally instruct receivers to take a specific action to synchronize the content of a Web page with a broadcast television program. Reward notices and reward queries may be transmitted in the VBI of a broadcast video signal. The text service channels of line 21 of the VBI provide a robust communication medium, albeit at relatively low bandwidth" (Col 4, Lines 27-35). "Returning to the example of FIG. 2, if a viewer answers question 269, then set-top box 245 notes the identity of the program in which the question appeared, the time the question was posed, a value expressing how much of the program was viewed, and the viewer's answer to the query. Set-top box 245 then stores this information in a local log file 271 on disk drive 250. In other embodiments, set-top box 245 collects different types of information to identify whether viewers respond to selected programs when prompted. The contents of log file 271 are eventually pushed to remote information store 220. In one embodiment, set-top box 245 periodically establishes network connection 225 to accomplish this push. Set-top box 245 includes a unique identifier 275, which set-top box 245 communicates to remote information store 220 each time a connection is established" (Col 3, Lines 45-62).

In regard to claims 2-4, Matheny discloses that the identical information is advertising information and the further information allocated to the identical information is one or more questions. "In accordance with the invention, broadcaster 205 notifies viewers of television set 235 that they may be rewarded for paying attention to a current or upcoming program, typically a commercial. Later, viewers are presented a question,

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the answer to which is based upon the content of the program. Viewers that provide the correct answer are entitled to the reward" (Col 2, Lines 56-62).

In regard to claim 5, Matheny discloses a host computer selects a user whose answers to the questions correspond to a set of reference answers stored in the host computer. "The message that includes unique identifier 275 notifies information store 220 that the viewer associated with receiver 215 has answered a query, and may therefore be entitled to a reward. Information store 220 determines, based on the information identifying the program, whether the viewer provided the correct answer. If so, then information store 220 allocates the appropriate reward to the viewer" (Col 4, Lines 14-20).

Claims 13 and 14 are met by that discussed above for claim 1.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matheny.

In regard to claim 9, Matheny fails to disclose that the system comprises at least 1000 input and at least 1000 output devices. However, the examiner takes official notice that it is notoriously well known in the art to employ a large number of

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input/output devices, such as at least 1000 input/output devices, so as to maximize revenue. Consequently, it would have been obvious to one of ordinary skill in the art to implement Matheny with at least 1000 input/output devices for the stated advantage.

In regard to claims 11-12, Matheny fails to disclose that the input/output devices are mobile phones. However, the examiner takes official notice that it is notoriously well known in the art to use mobile phones as input/output devices so as to allow the system to be versatile. Consequently, it would have been obvious to one of ordinary skill in the art to implement Matheny with input/output devices that are mobile phones for the stated advantage.

5. Claims 6-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Matheny in view of Sherman (US Pat No 5,213,337).

In regard to claims 6-8, Matheny fails to explicitly disclose that reference answers are determined by on the basis of frequency on individual answers. Sherman discloses reference answers that are determined by on the basis of frequency on individual answers where any particular one of the plurality of user's answers correspond to the reference answers so as to provide a methodology of determining answers to questions posed. "The studio participant suggests a likely response to the survey question. If he is correct that his answer was a popular response by those previously surveyed, a chime will sound, and a "#" tone is included on the audio-video tape 44. If incorrect, a buzzer goes off, and a "\*" tone is made on the audio-video tape" (Col 4, Lines 11-16).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows:

- Bauminger et al. (US Pat No 6,681,393)
- Lett (US Pat No 5,539,822)
- Kohorn (US Pat No 5,508,731)

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

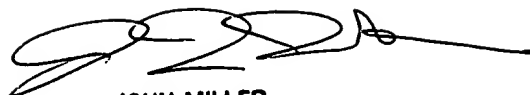


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December 9, 2005

A handwritten signature in black ink, appearing to read 'J. Miller', with a long horizontal stroke extending to the right.

**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**